

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ALLY FINANCIAL INC., et al,

Plaintiffs,

**MEMORANDUM
AND ORDER**

20-CV-1281 (MKB)

-against-

COMFORT AUTO GROUP NY LLC, et al,

Defendants.

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ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

Currently pending before this Court is a letter-motion filed by plaintiffs Ally Financial Inc. and Ally Bank (“plaintiffs”) to lift the previously imposed stay of the Second Amended Counterclaims asserted by defendant Comfort Auto Group NY LLC (“Comfort”) (DE #27), on the ground that pre-petition counterclaims of a debtor are not stayed by a bankruptcy filing. See Letter Motion for an Order Modifying the Court[’]s Stay Order (July 31, 2020), DE #27 at 2 (collecting cases). Rather than respond to plaintiffs’ motion, attorney Scott Levenson (“Levenson”), whose firm is counsel for Comfort and its two co-defendants (collectively, “defendants”), instead filed a letter (which should have been docketed as an ECF motion event) seeking to withdraw; Levenson vaguely claimed that defendants “have not been forthcoming and honest with their counsel[,]” see Letter Motion to be relieved (Aug. 11, 2020) (“Mot. to Withdraw”) at 2, DE #29, and he implied, without expressly representing, that defendants have failed to pay their attorneys’ fees, see id. at 1.

In his firm’s motion to withdraw, Levenson failed to acknowledge that he and his firm are continuing to represent Comfort and another co-defendant herein, Heshy Gottdiener, as plaintiffs

in a related action, Comfort Auto Group NY LLC et al. v. FCA US LLC et al., 20cv1094 (MKB/RLM), and that the firm has not moved to withdraw in that action. The purported “irreconcilable differences” claimed by Levenson in the instant case are not only unsupported by any specific allegations or evidentiary showing; they would appear to be belied by the firm’s continued representation of the same clients in a related action. Moreover, after filing the pending motion to withdraw, Levenson docketed a stipulation on behalf of Gottdiener and the third defendant in the case at bar, dismissing their counterclaims (DE #31). These actions by an attorney are inconsistent with any suggestion that the relationship between counsel and clients has made the former’s “attempt at representation impossible.” Mot. to Withdraw at 2. Consequently, the Court denies Levenson's motion to withdraw (DE #29).

Plaintiffs’ unopposed motion to lift the stay of Comfort’s counterclaims (DE #27) is granted, for the reasons stated in plaintiffs’ submission.

SO ORDERED.

**Dated: Brooklyn, New York
August 24, 2020**

/s/ Roanne L. Mann
ROANNE L. MANN
UNITED STATES3 MAGISTRATE JUDGE